

**LUMPKIN COUNTY RESOLUTION NO. 2008 - 27**

**A RESOLUTION TO ADOPT  
THE LUMPKIN COUNTY ALCOHOLIC BEVERAGE ORDINANCE,  
TO RESCIND PRIOR ORDINANCES IN CONFLICT,  
AND FOR OTHER PURPOSES**

**Whereas**, the governing authority of Lumpkin County did; and,

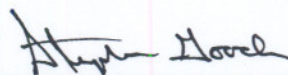
**Whereas**, the governing authority of Lumpkin County now desires to adopt a comprehensive Alcoholic Beverage Ordinance to provide for a uniform standard for all categories of alcoholic beverages approved by law for commerce in Lumpkin County,

**Now therefore, it is hereby resolved** that the Lumpkin County Alcoholic Beverage Ordinance is hereby adopted; and,

**Being Further Resolved**, that the existing licenses issued under the terms and conditions of the Lumpkin County Alcoholic Beverage Ordinance of 2002, as amended, for calendar year 2008 shall continue in full force and effect until their normal expiration, except as otherwise properly terminated as provided by law, and not to extend beyond December 31, 2008; and,

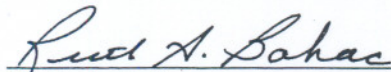
**Being Further Resolved**, that the Lumpkin County Alcoholic Beverage Ordinance of 2002, as amended, is hereby rescinded for new licenses immediately, and for all purposes upon the expiration or termination of the last license issued under its terms, or December 31, 2008, whichever first occurs.

**Resolved, adopted and effective** this 5<sup>th</sup> day of June, 2008.



Stephen W. Gooch, Chairman  
Lumpkin County Board of Commissioners

Attest:



Ruth A. Bohac  
Clerk, Lumpkin County



**LUMPKIN COUNTY  
ALCOHOLIC BEVERAGE ORDINANCE**

**AN ORDINANCE**

**FOR THE LICENSING, CONTROL, TAXATION AND REGULATION  
OF THE SALE OF DISTILLED SPIRITS BY THE DRINK FOR CONSUMPTION ON THE  
PREMISES FOR BEVERAGE PURPOSES, AND THE SALE OF MALT BEVERAGES AND WINE  
FOR BEVERAGE PURPOSES BOTH FOR SALE BY THE DRINK FOR CONSUMPTION ON THE  
PREMISES AND SALE BY THE PACKAGE FOR OFF PREMISES CONSUMPTION WHERE  
SOLD IN THE UNINCORPORATED PORTION OF LUMPKIN COUNTY, GEORGIA**

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**ARTICLE I. GENERAL****Sec. 1. Sale in unincorporated area of county; license a privilege.**

- a. Alcoholic beverages may be sold in the unincorporated area of the county under a license granted by the Board of Commissioners upon the terms and conditions provided in this section.
- b. All licenses in this chapter shall be a mere grant of privilege to carry on the business during the term of the license, subject to all terms and conditions imposed by this Code and state law.
- c. All licenses pursuant to this chapter shall have printed on the front these words: "This license is a mere privilege subject to be revoked and annulled, and is subject to any further ordinances which may be enacted."
- d. Any holder of a license issued pursuant to this chapter is required to apply for and obtain an alcoholic beverage license from the state before any sales commence. Additionally, county licensees are required to abide by all applicable state regulations and laws.

**Sec. 2. Definitions.**

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

**Alcohol** means ethyl alcohol, hydrated oxide of ethyl, or spirits of wine, from whatever source or by whatever process produced.

**Alcoholic beverage** means and includes all alcohol, distilled spirits, beer, malt beverage, wine or fortified wine as defined in this section.

**Bed and Breakfast (B&B)** means any established facility providing overnight sleeping accommodations to the general public to include bedrooms with bath and at least a breakfast meal. It is not anticipated that a bed and breakfast facility would be issued an alcoholic beverage license unless the facility qualifies also as a hotel, motel or lodge.

**Beer or malt beverage** means any alcoholic beverage obtained by the fermentation of any infusion or decoction of barley, malt, hops, or any other product, or any combination of such products in water containing not more than 14 percent alcohol by volume, and including ale, porter, brown, stout, lager, beer, small beer and strong beer. Also included are beverages known as "non-alcoholic beer" which is made by fermentation of any infusion or decoction of barley, malt, hops, or other products, and containing less than three percent, but more than zero point one (0.1) percent alcohol by volume. The term "malt beverage" does not include sake, known as Japanese rice wine.

**Distilled spirits or spirituous liquor** means any alcoholic beverage obtained by distillation or containing more than 21 percent alcohol by volume including, but not limited to, all fortified wines.

**Eating establishment** means any public place, including a place available for rental by the public,



selling prepared food for consumption by the public on the premises with a full service kitchen. A full service kitchen will consist of a three-compartment pot sink, a stove or grill permanently installed, and refrigerator all of which must be approved by the health and fire departments. An eating establishment will be prepared to serve food every hour they are open and will derive at least as much gross receipts annually from the sale of prepared meals or food as it derives from the sale of distilled spirits.

**Fortified wine** means any alcoholic beverage containing more than 21 percent alcohol by volume made from fruits, berries, or grapes, either by natural fermentation or by natural fermentation with brandy added. Fortified wine includes, but is not limited to, brandy.

**Full service kitchen** means a kitchen designed, intended and equipped to produce meals for sale to the general public as a major function of the business. A full service kitchen must have a fire suppression range hood approved by the fire marshal and a commercial dishwasher capable of achieving and maintaining a wash water temperature in excess of 175 degrees Fahrenheit and approved by the Lumpkin County Health Department. A three pot sink, an installed stove and ovens and a refrigerator of adequate size for the projected use must be installed and approved by the Health Department and fire marshal. Other additional requirements may be specified as deemed appropriate for particular categories of kitchen as may be provided herein.

**Governing Authority** means the Lumpkin County Board of Commissioners.

**Hotel** means any building or other structure or structures providing sleeping accommodations for hire to the general public, transient, permanent or residential. The term "hotel" shall include a "motel" or a "lodge" otherwise meeting the qualifications; if such qualifications are met, they shall be classified in the same category as hotels. Such hotels shall maintain a minimum of 30 rooms available for hire and have one or more public dining rooms with full service kitchen. Hotels shall have the privilege of granting franchises for the operation of any licensed establishment described in this chapter and the holder of such franchise shall be included in the definition of a hotel pursuant to this definition.

**Indoor commercial recreational establishment** means and is limited to an establishment which:

- (1) Regularly serves prepared food, with a full service kitchen, prepared to serve food every hour they are open and deriving at least 50 percent of its total annual gross sales from the sale of prepared meals or foods and recreation activities; and
- (2) Wherein the sale of food and alcoholic beverages is incidental to its primary enterprise and activity on the premises.

The primary activity on the premises of the indoor commercial recreational establishment shall be family-oriented in nature, generally meaning a use which attracts a range of individuals from all age groups. Uses may specifically include, but are not limited to, dinner theatres, bowling, centers, and other similar uses. Outdoor commercial recreation is not included, nor shall concession sales of alcoholic beverages be permitted. Bingo parlors, dance halls, nightclubs, taverns, billiard parlors, video arcades, skating arenas, adult entertainment and/or sexually related entertainment activities, and similar uses are specifically excluded from this definition of indoor commercial recreational establishments. No indoor commercial recreational establishment shall offer alcoholic beverages for sale during the time it is sponsoring events which primarily attract persons under the lawful drinking age in the state.



**Indoor entertainment hall** shall mean a publicly or privately owned commercial establishment which:

- (1) provides professional, live musical entertainment or concerts, performed on-site indoors, at least four nights a week on average over the course of a calendar year;
- (2) regularly serves prepared food, with a full service kitchen;
- (3) is prepared to serve food every hour it is open (this means adequately staffed and with reasonable quantities of food on hand ready for preparation on site);
- (4) derives at least 50 percent of its total annual gross sales from the sale of prepared meals or foods, admission charges, ticket sales, sale of merchandise, vending sales, attendance fees, or other recreational, promotional or operational activities;
- (5) does not ever provide sexually related adult entertainment;
- (6) has at least 50,000 square feet of enclosed heated space;
- (7) has an occupant capacity of at least 500;
- (8) is located on a major thoroughfare;
- (9) does not provide the sale of alcohol on Sundays; and
- (10) does not allow the admission of persons under the age of 18 during hours when alcohol is served. Indoor entertainment halls shall be allowed to sell alcoholic beverages through concession sales.

**Indoor publicly owned civic and cultural center** means and is limited to publicly owned establishments which:

- (1) Regularly serve food, with a full service kitchen. It shall be prepared to serve food every hour such center is open and deriving at least 50 percent of its total annual gross sales from the sale of prepared meals or foods and recreational, promotional entertainment or operational activities; and in which
- (2) The sale of food and alcoholic beverages are incidental to its primary enterprise and activity on the premises. Indoor publicly owned civic and cultural centers may include renovated courthouses used as civic and cultural centers.

**License** means an authorization granted by the county to operate as a retail consumption dealer, retail package dealer or wholesale dealer.

**Licensee** means the individual to whom a license is issued or, in the case of a partnership or corporation, all partners, officers, and directors of the partnership or corporation.

**Liter** means metric measurement currently used by the United States.



**Manufacturer** means any maker, producer, or bottler of an alcoholic beverage. Manufacturer also means: in the case of distilled spirits, any person engaged in distilling, rectifying, or blending any distilled spirits; in the case of malt beverage, any brewer.

**Package** means a bottle, can, keg, barrel, or other original consumer container. Retail package alcoholic beverages shall include all alcoholic beverages in their original container, sold at retail to the final consumer, and not for resale.

**Person** means any individual, firm, partnership, cooperative, nonprofit membership corporation, joint venture, association, company, corporation, agency, syndicate, estate, trust, business trust, receiver, fiduciary, or other group or combination acting as a unit, body politic, or political subdivision, whether public, private, or quasi public.

**Pouring permit** means an authorization granted by the county to dispense, sell, serve, take orders, or mix alcoholic beverages in establishments licensed as a retail consumption dealer.

**Retail consumption dealer** means any person who sells alcoholic beverages for consumption on the premises, at retail, only to consumers and not for resale.

**Retail package dealer** means any person who sells unbroken packages, at retail, only to consumers and not for resale.

**Wholesaler or wholesale dealer** means any person who sells alcoholic beverages to other wholesale dealers, to retail dealers, or to retail consumption dealers.

**Wine** means any alcoholic beverage containing not more than 21 percent alcohol made from fruits, berries, or grapes either by natural fermentation or by natural fermentation with brandy added. Wine includes, but is not limited to, all sparkling wines, champagnes, combinations of such beverages, vermouths, special natural wines, rectified wines, and like products. The term "wine" does not include cooking wine mixed with salt or other ingredients so as to render it unfit for human consumption as a beverage. A liquid shall first be deemed to be a wine at the point in the manufacturing process when it conforms to the definition of wine contained in this section.

### **Sec. 3. Penalties for violation of chapter.**

Any person who violates any provisions of the sections in this chapter may, upon conviction, be punished by a fine of not less than \$300.00 and not more than \$1,000.00 for each offense and/or 30 days in the county jail, unless a different penalty is set out in this chapter.

### **Sec. 4. Sale or possession for sale without license or beyond boundaries of premises covered by license.**

It shall be unlawful for any person, corporation, partnership or other legal entity to possess, sell, or possess for the purpose of sale at any retail business location any alcoholic beverage where the person does not have a license granted by Lumpkin County to sell or possess for sale these alcoholic beverages, or to sell or make deliveries beyond the boundaries of the premises covered by the license.



**Sec. 5. Distance requirements.**

- a. No person may sell or offer to sell any alcoholic beverage in or within 100 yards of a church building or within 100 yards of any school building or building housing an alcohol treatment center.
- b. As used in this section, the term "school building" and "school" shall apply only to state or county school buildings and to such buildings at such other schools in which are taught subjects commonly taught in the common schools and colleges of this state and which are public schools or private schools as defined in O.C.G.A. § 20-2-690(b). The term "school building" includes only those structures in which instruction is offered.
- c. The term "church building" as used in this section shall mean the main structure used by any religious organization for purposes of worship.
- d. The term "alcohol treatment center" includes only a structure housing a Georgia licensed alcoholic treatment center or half-way house.
- e. For purposes of this section, distance shall be measured by the most direct route of travel on the ground and shall be measured in the following manner:
  - (1) From the main entrance of the establishment from which alcoholic beverages are sold or offered for sale;
  - (2) In the shortest reasonably used line to the nearest public sidewalk, walkway, street, road or highway by the nearest route;
  - (3) Along such public sidewalk, walkway, street, road or highway by the nearest route;
  - (4) To the main entrance of the church building, or to the nearest portion of the school building or alcohol treatment center.
- f. No location which is licensed to sell alcoholic beverages on the effective date of the ordinance from which this section derives shall be denied continued operation under an existing license, or denied any renewal of such license, nor shall any new owner of the location be denied a new license based upon the measurements set forth in this section.
- g. As to any location licensed in the future, if the distance requirements in this section are met at the time of issuance of any license, the subsequent opening and operation of a church or school within the distance prohibited in this section shall not prevent the continuance of an existing license or the renewal thereof or the issuance of a new license to any subsequent owner of such property. Provided, further, that the distance requirements herein shall not apply at any location for which a new license is applied for if the sale of alcoholic beverages was lawful at such location at any time during the 12 months immediately preceding such application.



**Sec. 6. Separate application and separate license for each location of sale.**

Separate applications must be made for each location and separate licenses must be issued.

**Sec. 7. Application forms.**

- a. All persons desiring to sell alcoholic beverages shall make application on the form prescribed by the Board of Commissioners.
- b. The application shall include, but shall not be limited to: the name and address of the applicant; the proposed business to be carried on; if a partnership, the names and residence address of the partners; if a Limited Liability Company, L.L.C., the name and address of the manager(s) and the name of any person or legal entity owning 20 percent of the L.L.C.; if a corporation, the names of all the officers, the name and address of the registered agent for service of process, the name of the manager(s), and the name of all shareholders holding more than 20 percent of any class of corporate stock, or any other entity having a financial interest in each entity which is to own or operate the establishment for which a license is sought. If the manager changes, the applicant must furnish the business license supervisor (Planning Department), the alcoholic beverage license supervisor (Lumpkin County Clerk) and the Lumpkin County Sheriff's Department the name and address of the new manager and other information as requested within ten days of such change.
- c. All applicants shall furnish data, fingerprints, financial responsibility and other records as required by the Board of Commissioners and to ensure compliance with the provisions of this chapter. Failure to furnish data pursuant to such request shall automatically serve to dismiss the application with prejudice.
- d. All applications shall be sworn to by the applicant before a notary public or other officer empowered by law to administer oaths. The application shall have in bold print on the page on which the applicant signs the following notice:

**Warning: Making any False Statement  
Under Oath is a Crime and Can Result  
In Fines or Prison Sentences**

- e. In all instances in which an application is denied under the provisions of this chapter the applicant may not reapply for a license for at least one year from the final date of such denial.
- f. The County shall provide written notice to any applicant whose application is denied under the provisions of this chapter. Such written notification shall set forth in reasonable detail the reasons for such denial and shall advise the applicant of the right to file an appeal requesting reconsideration to the Board of Commissioners in accordance with the general appeal procedures of the board. (Lumpkin County Resolution 2006-30, Administrative Procedures, June 18, 2006, "Appeals to Board of Commissioners").



**Sec. 8. Withdrawal of application.**

Any license application made pursuant to this chapter may be withdrawn by the applicant at any time. If the application is withdrawn before the license is issued, any sums deposited as license fees will be refunded. After issuance of the license, no refunds will be made. No refunds shall be made under any circumstances for investigative and administrative fees required in this chapter.

**Sec. 9. Licensing qualifications.**

- a. No license for the sale of alcoholic beverages shall be granted to any person who is not a citizen of the United States or an alien lawfully admitted for permanent residence.
- b. Where the applicant is a partnership, limited liability company or corporation, the provisions of this section shall apply to all its partners, officers, manager(s) and majority stockholders. In the case of a corporation the license shall be issued jointly to the corporation and the majority stockholder, if an individual. Where the majority stockholder is not an individual, the license shall be issued jointly to the corporation and its agent registered under the provisions of this subsection. In the case of a partnership the license will be issued to all the partners owning at least 20 percent of the partnership. If no partner owns 20 percent of the partnership, then the general partner, managing partner or the partner with the greatest ownership will be licensed. In the case of a limited liability company, the license will be issued jointly to the limited liability company and manager(s).
- c. No person, firm, limited liability company or corporation shall be granted any alcoholic beverage license unless it shall appear to the satisfaction of the Board of Commissioners or their designee that such person, manager(s), partners in the firm, or officers and directors of the corporation have not been convicted or plead guilty or entered a plea of nolo contendere to and have been released from parole or probation concerning any crime involving moral turpitude, illegal gambling or illegal possession or sale of controlled substances or the illegal possession or sale of alcoholic beverages, including the sale or transfer of alcoholic beverages to minors in a manner contrary to law, keeping a place of prostitution, pandering, pimping, public indecency, prostitution, solicitation of sodomy, or any sexual related crime within a period of ten years immediately prior to the filing of such application. At the time an application is submitted for any alcoholic beverage license, the applicant shall, by a duly sworn affidavit, certify that neither the applicant, nor any of the other owners of the establishment has been convicted or has pleaded guilty or entered a plea of nolo contendere to any crime involving moral turpitude, illegal gambling or illegal possession or sale of controlled substances or the illegal possession or sale of alcoholic beverages, including the sale or transfer of alcoholic beverages to minors in a manner contrary to law, keeping a place of prostitution, pandering, pimping, public indecency, prostitution, solicitation of sodomy, or any sexual related crime within a period of ten years immediately prior to the filing of such application. An applicant's first conviction for illegal possession of alcohol as a misdemeanor or violation of a county ordinance shall not, by itself, make an applicant ineligible for an alcohol license. Should any applicant, partner, or officer instrumental in the sale or dispensing of any alcoholic beverage, after a license has been granted, be convicted or plead guilty or nolo contendere to a crime involving moral turpitude, illegal gambling or illegal possession or sale of controlled



substances or the illegal possession or sale of alcoholic beverages, including the sale or transfer of alcoholic beverages to minors in a manner contrary to law, keeping a place of prostitution, pandering, pimping, public indecency, prostitution, solicitation of sodomy, or any sexual related crime, the license shall be immediately revoked and cancelled.

- d. No license for the sale of alcoholic beverages shall be granted to any person convicted under any federal, state or local law of any felony, within ten years prior to the filing of application for such license.
- e. It shall be unlawful for any county employee directly involved in the issuance of alcoholic beverage licenses under this chapter to have any whole, partial or beneficial interest in any license to sell alcoholic beverages in the county.
- f. No license for the sale of alcoholic beverages shall be granted to any person who has had any license issued under the police powers of the county previously revoked within two years prior to the filing of the application.
- g. The Board of Commissioners may decline to issue a license when any person having any ownership interest in the operation of such place of business or control over such place of business does not meet the same character requirements as set forth in this section for the licensee.
- h. All licensed establishments must have and continuously maintain in the county a registered agent upon whom any process, notice or demand required or permitted by law or under this chapter to be served upon the licensee or owner may be served. This person must be a resident of the county. The licensee shall file the name of such agent, along with the written consent of such agent, with the Board of Commissioners and shall be in such form as they may prescribe.
- i. A license application may be denied to any applicant for any alcoholic beverage license where it appears that the applicant would not have adequate financial participation in the proposed business to direct and manage its affairs, or where it appears that the application is intended to be a mere surrogate for a person or persons who would not otherwise qualify for a license for any reason whatsoever.
- j. For purposes of this chapter, a conviction or plea of guilty of nolo contendere shall be ignored as to any offense for which a defendant who was allowed to avail themselves of the Georgia First Offender Act (1968 Ga. Laws, page 324), as amended. Except, however, that any such offense shall not be ignored where the defendant violated any term of probation imposed by the court granting first offender treatment or committed another crime and the sentencing court entered an adjudication of guilt as to the crime for which the defendant had previously been sentenced as a first offender.

#### **Sec. 10. License fee scale.**

Before a license shall be granted, the applicant therefore shall comply with all rules and regulations adopted by the Board of Commissioners regulating the sale of alcoholic beverages and each



applicant shall pay a license fee in accordance with the scale fixed, from time to time, by the Board of Commissioners contained in section 11 and kept on file in the County office.

**Sec. 11. Fees enumerated.**

License fees applicable to this chapter are set out as follows:

- a. Retail dealers of distilled spirits to be consumed on the premises, \$1,500.00 per year for first fixed bar.
- b. Retail dealers of beer and wine to be consumed on the premises, \$1,000.00 per year.
- c. Retail dealers of beer and wine sold in original packages for consumption off the premises, \$1,000.00 per year.
- d. Any additional fixed bar at any concurrently licensed location for consumption of distilled spirits on the premises, \$750.00 per year.
- e. Any movable bar at any concurrently licensed location for consumption of distilled spirits on the premises, \$250.00 per year.
- f. Temporary license for nonprofit civic organizations, \$50.00 per day, maximum ten days per year.
- g. Nonprofit private club, beer to be consumed on the premises, \$250.00 per year.
- h. Nonprofit private club, wine to be consumed on the premises, \$250.00 per year.
- i. Nonprofit private club, beer and wine to be consumed on the premises, \$500.00 per year.
- j. Nonprofit private club, distilled spirits to be consumed on the premises, \$1,000.00 per year.
- k. Hotel-motel "in-room service," \$250.00 per year.
- l. Wholesale dealers in alcoholic beverages whose principal place of business is in the county, \$2,000.00 per year.
- m. Wholesale dealers in alcoholic beverages whose principal place of business is not in the county, \$500.00 per year.
- n. Brewpub, \$600.00 per year.
- o. Farm Winery, farm wines sold by the bottle to be consumed off the premises, \$1,000.00 per year. (see Section 133 subparagraph "e")
- p. Farm Winery, farm wines sold for on premise consumption, \$1,000.00 per year. (see



## Section 133 subparagraph "e")

- q. Farm Winery, wholesale sales as approved under O.C.G.A. 3-6-21, \$1,000.00 per year. (see Section 133 subparagraph "e")
- r. Farm Winery license and adding wines other than farm wines sold by the bottle to be consumed off the premises, \$650.00 per year.
- s. Farm Winery license and adding wines other than farm wines sold for on premise consumption, \$650.00 per year.
- t. Farm Winery license and adding other than farm wines sold for both on premise consumption and for off premise consumption, \$1,000.00 per year.

**Sec. 12. Collection of fees or taxes sums due.**

If any person shall fail to pay the sum due under this chapter, the Board of Commissioners or designee shall issue an execution against the person so delinquent and his property for the amount of the delinquent fee or tax.

**Sec. 13. Transferability of license.**

- a. No license for the sale of alcoholic beverages shall be transferable, except as otherwise provided in this section.
- b. In case of the death of a licensee, the establishment shall be allowed to continue to sell alcoholic beverages for a period of 45 days from the date of death or until expiration of the license or until approval of a new licensee, whichever shall first occur, provided that no sale of alcoholic beverages shall be allowed until such time as a personal representative of the estate, appointed by a probate court of competent jurisdiction, shall make application for authorization with the Board of Commissioners.
- c. If a license is surrendered or a licensee severs his association with a licensed establishment, the establishment may continue to sell alcoholic beverages for a period of 45 days from the date of surrender, or from the date determined by the Board of Commissioners to be the date of severance, provided no such sale shall be authorized until such time as a new application for a license is made. The application shall indicate that no change of ownership has occurred, except as excepted in this section. Upon issuance of a new license, the authorization to sell under the previous license shall be revoked by operation of law. No additional license fees shall be required during the period for which the original license was issued.
- d. Nothing in this section, however, shall prohibit one or more of the partnership holding a license to withdraw from the partnership in favor of one or more of the partners who were partners at the time of the issuance of the license. This section shall not prohibit transfer of stock between persons who held stock in the corporation at the time of issuance of the license nor shall it prohibit transfers of stock which do not result in any person increasing his stock holdings to a



total of ten percent or more of any class of stock.

- e. Except as provided in subsections "a" through "d" of this section, any change in the ownership of any entity owning a licensed establishment shall cancel and revoke any license pursuant to this chapter automatically, without the necessity of any hearing.
- f. Violation of this section shall result in revocation of the license being used and a fine on the new ownership and the old ownership of not less than \$300.00 and not more than \$1,000.00 and/or 30 days in jail. No license will be issued to the old or the new owner in the county for one year from the date of the violation.
- g. Should a licensee make application to the Board of Commissioners for a transfer of location and should such a transfer of a location be approved, with no change of ownership of the business, the license fee paid for the previous license shall be applied to the new location. Each applicant for a transfer of location shall pay a transfer fee in the amount of \$300.00.

#### **Sec. 14. Display of license at place of business.**

The county alcoholic beverage license shall at all times be kept plainly exposed to view to the public at the place of the business of the licensee.

#### **Sec. 15. Expiration; renewal of license.**

All licenses granted hereunder shall be for the calendar year and the full license fee must be paid for a license application filed prior to July 1 of the license year. One-half of a full license fee shall be paid for a license application filed after July 1 of the license year.

#### **Sec. 16. Automatic license forfeiture for nonuse.**

Any holder of any license under this chapter who shall for a period of three consecutive months after the license has been issued cease to operate the business and sale of the product or products authorized shall, after the three-month period, automatically forfeit the license without the necessity of any further action.

#### **Sec. 17. Suspension or revocation of license.**

- a. In the event that any license holder under this chapter fails to give notice to the Board of Commissioners of withdrawal from the licensed activity, any sale of alcoholic beverages prior to the qualification of a new license holder shall result in the revocation of the license for the period remaining. Additional penalties or prosecution under law may also be imposed.
- b. Any reissue of a license in the name of a person no longer employed or a part of the license holder shall result in the immediate revocation of the license for a period of the remainder of the license period. Additional penalties or prosecution under law may also be imposed.
- c. A license may be suspended or revoked by the Board of Commissioners where the licensee



furnishes fraudulent or untruthful information in the application for a license and for failure to pay all fees, taxes or other charges imposed under the provisions of this chapter. Any fraudulent or untruthful information provided under oath may be provided to the District Attorney for prosecution as provided by law.

- d. Whenever the State shall revoke any permit or license to sell alcoholic beverages, the county license shall thereupon be automatically revoked. The Sheriff, upon notice of this revocation from the Board of Commissioners, shall take such steps as deemed necessary to ensure that signs are removed and that all alcoholic beverage sales cease.
- e. Any licensed establishment that is found to be in violation of sections 31 or 37 shall be subject to immediate license revocation.
- f. The Board of Commissioners shall revoke the license of any licensee whose license has been suspended three or more times in any consecutive 12 month period.
- g. The Board of Commissioners shall revoke the license for any premises where alcoholic beverages have been sold or distributed during a period of suspension.
- h. The Board of Commissioners may suspend or revoke the license of any establishment which does not meet the licensing qualifications set forth in this chapter at any time such knowledge becomes known to him/her.
- i. An act or omission of a licensee, owner of more than 20 percent interest in the licensed establishment, or employee of the licensee or licensed establishment willingly or knowingly performed, which constitutes a violation of federal or state law or of any provision of this chapter will subject the licensee to suspension or revocation of its license in accordance with the provisions of this chapter, when the Board of Commissioners determines to its own satisfaction that the act or omission did occur, regardless of whether any criminal prosecution or conviction ensues.
- j. Whenever it can be shown that a licensee under this chapter no longer maintains adequate financial responsibility upon which issuance of the license was conditioned, or whenever the licensee has defaulted in any obligation of any kind whatsoever, lawfully owing to the county.
- k. Wherever this chapter permits the Board of Commissioners to suspend any license issued under this chapter but does not mandate the period of such suspension, such discretion shall be exercised within the guidelines of this subsection.
  - (1) No suspension shall be for a period of time longer than the time remaining on such license.
  - (2) The following factors shall be considered on any revocation or suspension as set out above:
    - (a) Consistency of penalties mandated by this chapter and those set by the Board of Commissioners.
    - (b) Likelihood of deterring future wrongdoing.



## **ARTICLE II. RETAIL SALES OF DISTILLED SPIRITS FOR CONSUMPTION ON THE PREMISES**

### **Sec. 66. Locations where permitted.**

No distilled spirits may be sold by the drink for consumption on the premises where sold except:

- a. In eating establishments regularly serving prepared food, with a full service kitchen.

Such eating establishment will regularly serve food every hour they are open and derive at least as much gross receipts annually from the sale of prepared meals or food as it derives from the sale of distilled spirits.

When eating establishments are located in hotels, motels, and high-rise office and apartment buildings, every entrance to the establishment shall be from a public lobby, hallway, mall or other publicly used interior portion of the primary use structure.

- b. In indoor commercial recreation establishments as defined herein.
- c. In an indoor publicly owned civic and cultural center as defined herein.
- d. In indoor entertainment halls as defined herein.

### **Sec. 67. Investigative and administrative costs.**

Each application for a license under this article shall be accompanied by a certified check for the full amount of the license fee, together with a separate certified check or cash in the amount of \$350.00 to defray investigative and administrative costs. If the applicant is denied a state license, the deposit representing the license fee shall be refunded; but the \$350.00 cost paid for investigation and administrative costs shall be retained. However, any person applying for more than one license shall pay only one fee to defray investigative and administrative expenses, which fee shall be the largest of the investigative and administrative fees authorized under this Code. Any applicant for a license under this article who has in existence at the time of making the new application an existing license under this article shall pay no investigative and administrative costs.

### **Sec. 68. Advertising in official gazette of county.**

A notice of each application to sell distilled spirits by consumption shall be advertised in the official gazette of the county, once a week for two weeks immediately preceding consideration of the application.

### **Sec. 69. Hours and days of sale.**

- a. Distilled spirits shall not be sold for consumption on the premises except between the hours of 11:00 a.m. until 12:00 midnight, or until one hour prior to the end of full food service, whichever first occurs, Monday through Saturday.



- b. Distilled spirits shall not be sold for consumption at any time in violation of any local ordinance or regulation or of any special order of the governing authority.
- c. Distilled spirits may be sold for consumption on the premises until 1:55 a.m. on any January 1, New Year's Day, of any year. If January 1 of any year is a Monday, then distilled spirits may be sold for consumption on the premises from 12:00 midnight to 1:55 a.m.
- d. It shall be unlawful for a business holding a distilled spirits consumption on the premises license to fail to remove from its retail service area any and all cans, bottles, glasses, mugs, pitchers, cups, or any other container used in the consumption of alcoholic beverages or to otherwise allow the consumption of alcoholic beverages on its premises one hour or more after the business is prohibited from selling, dispensing, or delivering alcoholic beverages to any customer, patron or guest of the business.

A violation of any subsections of this section by a licensee, majority stockholder, general manager or managing partner of the licensee or licensed establishment shall result in license suspension for a period of two days, which shall be scheduled to include a Friday and Saturday in succession.

**Sec. 70 -- 90. Reserved.**

### **ARTICLE III. RETAIL SALES OF MALT BEVERAGES AND WINE FOR CONSUMPTION ON THE PREMISES**

#### **Sec. 91. Type of retail establishment where permitted.**

No beer or wine shall be sold for consumption on the premises where sold except:

- a. In eating establishments having a full service kitchen, prepared to serve food every hour they are open;
- b. In indoor commercial recreation establishments;
- c. In an indoor publicly owned civic and cultural center capable of serving prepared food, with a full service kitchen, prepared to serve food every hour it is open and deriving at least 50 percent of its total annual gross sales from the sale of prepared meals or foods and recreational, promotional or entertainment or operational activities.
- d. At a publicly owned golf course.
- e. Or an indoor entertainment hall.

These eating establishments must be located in a restaurant or drive-in restaurant or where these eating establishments are incidental to a hotel or motel, or to a publicly owned golf course or indoor entertainment hall.



**Sec. 92. License fee and amount to defray investigative and administrative costs to accompany application.**

Each application for a license under this article shall be accompanied by a certified check for the full amount of the license fee, together with a separate certified check or cash in the amount of \$350.00 to defray investigative and administrative costs. If the application is denied and the license refused, or if the applicant withdraws his application prior to its being issued, the license fee shall be refunded; but the \$350.00 costs paid for investigation and administration shall be retained. Any person applying for more than one license shall pay only one fee to defray investigative and administrative expenses, which fee shall be the largest of the investigative and administrative fees authorized under this Code. Any applicant for a license under this article who has in existence at the time of making the new application an existing license under this article shall pay no investigative and administrative costs.

**Sec. 93. Hours and days of sale.**

- a. Beer and/or wine shall not be sold for consumption on the premises except between the hours of 11:00 a.m. and 12:00 midnight, or one hour prior to closing, whichever is earlier, Monday through Saturday.
- b. No beer and/or wine shall be sold for consumption at any time in violation of any local ordinance or regulation or of any special order of the governing authority.
- c. Beer and/or wine may be sold for consumption until 1:55 a.m. on any January 1, New Year's Day, of any year. If January 1 of any year is a Monday, then beer and wine may be sold for consumption on the premises from 12:00 midnight to 1:55 a.m.
- d. It shall be unlawful for a business holding a beer and/or wine consumption on the premises license to fail to remove from its retail service area any and all cans, bottles, glasses, mugs, pitchers, cups, or any other container used in the consumption of alcoholic beverages or to otherwise allow the consumption of alcoholic beverages on its premises one hour or more after the business is prohibited from selling, dispensing, or delivering alcoholic beverages to any customer, patron or guest of the business.

A violation of subsections "a," "b" or "d" of this section by a licensee, majority stockholder, general manager or managing partner of the licensee or licensed establishment shall result in license suspension for a period of two days, which shall be scheduled to include a Friday and Saturday in succession.

**Secs. 94 -- 115. Reserved.**

**ARTICLE IV. RETAIL PACKAGE SALES OF MALT BEVERAGES AND WINE****Sec. 116. Type of retail establishment where permitted.**

No beer and/or wine shall be sold at retail except in establishments maintaining 50 percent or greater of the floor space and storage area in a manner which is devoted principally to the retail sale of



products other than alcoholic beverages. No retail package licensee shall be permitted to hold any license for on premise consumption of any alcoholic beverage.

**Sec. 117. Hours and days of sale.**

- a. Retail package licensees shall not engage in the sale of beer and/or wine except between the hours of 8:00 a.m. and 12:00 midnight Monday through Saturday. The hours within which business may be carried on shall be determined by the standard time in force at the time of the sale of beer and/or wine.
- b. Retail package beer and/or wine shall not be sold at any time in violation of any local ordinance or regulation or of any special order of the governing authority.

**Sec. 118. Use of tags or labels to indicate prices.**

Retailers shall indicate plainly by tags or labels on the bottles or containers or on the shelf immediately below where the containers are placed the prices of all beer and wine exposed or offered for sale.

**Sec. 119. Quantity sale requirements.**

Single cans or bottles or other containers of alcoholic beverages may be sold.

**Sec. 120. License fee and amount to defray investigative and administrative costs to accompany application.**

Each application for a license under this article shall be accompanied by a certified check for the full amount of the license fee, together with a separate certified check or cash in the amount of \$350.00 to defray investigative and administrative costs. If the application is denied and the license refused, or if the applicant withdraws his application prior to its being issued, the license fee shall be refunded; but the \$350.00 cost paid for investigation and administration shall be retained. However, any person applying for more than one license shall pay only one fee to defray investigative and administrative expenses, which fee shall be the largest of the investigative and administrative fees authorized under this code. As to any applicant for a license under this article who has in existence at the time of making the new application an existing license under this article, there shall be no investigative and administrative fee.

**Secs. 121 --130. Reserved.**

**ARTICLE V. SALE BY FARM WINERIES**

**Sec. 131. Definitions.**

"**Farm winery**" means a domestic winery located on premises, a substantial portion of which is used for agricultural purposes, including the cultivation of grapes, berries, or fruits to be utilized in the manufacture or production of wine by the winery, or domestic winery that (a) makes at least 40% of its annual production from agricultural produce grown in this state; (b) is owned and operated by persons who are engaged in the production of a substantial portion of the Georgia agricultural produce used in its



annual production, and for this purpose, such production of a substantial portion of such Georgia agricultural produce shall be determined by the Commissioner of Agriculture of the State of Georgia, and (c) produces less than 100,000 gallons per year.

**"Tasting room"** shall mean an outlet for the promotion of a farm winery's wine by providing samples of such wine to the public and for the sale of such wine at retail for consumption on the premises and for sale in closed packages for consumption off the premises. Samples of wine may be given complimentary or for a fee.

**Sec. 132. Wines sold under this Article.** A farm winery may sell its wine and the wine of any other Georgia farm winery licensee at retail in a tasting room or other facility on the premises of the winery for consumption on the premises and in closed packages for consumption off the premises and to sell its wine and the wine of any other Georgia farm winery licensee at retail for consumption on the premises and in closed packages for consumption off the premises in tasting rooms at a location within Lumpkin County that is one of the five additional locations in the State of Georgia authorized by O.C.G.A. § 3-6-21.1 (b), but only if the annual production of wine by the farm winery is made in Georgia in accordance with the source of berries, fruits or grapes as provided by the laws of the State of Georgia and the Rules and Regulations of the Georgia Department of Agriculture.

**Sec. 133. Farm Winery Licenses.** The alcoholic beverage licenses which may be issued to Farm Wineries under this chapter are:

- a. **Wholesaler of farm winery production.** A Farm Winery shall be granted a wholesale license for sale and distribution as provided by O.C.G.A. 3-6-21.1. Such license shall be issued upon application and payment of established fees and upon presentation of a receipt for payment of the Georgia annual license tax as provided by the above referenced code provisions.
- b. **Retail package sales of wine.** Each retail package sales license shall require that all sales shall be by and through the Farm Winery tasting room at the site for which said license is issued.
- c. **Retail sales of wine.** Each license for retail sales of wine and malt beverages for consumption on the premises shall require that all consumption shall be at the farm winery site for which said license is issued. This site shall include any wedding or dining facilities associated with the farm winery.
- d. A farm winery may apply for and, if approved, may be issued multiple farm winery licenses as provided in subparagraphs "a," "b" and "c" above for any single site. At the primary farm winery facility where the wine is produced, such site may be licensed for wholesale, package retail sales and on premise consumption. For any site other than the primary farm winery facility where the wine is produced – up to the maximum number of such sites as may be permitted by Georgia statute – such site may be licensed for package retail sales and on premise consumption. The license created in accord with this Article shall be limited to farm winery tasting rooms licensed by the State of Georgia in accord with O.C.G.A. §3-6-21.1, et seq., and the licensee shall be permitted to perform only acts allowed in accord with such statutes. No license is hereby created authorizing any other use.
- e. **Alternative provision:** *The first license at any site shall have a cost equal to the cost of a Lumpkin County alcoholic beverage license at the time of the application. Any license for two*



*categories of sale shall be at the price of a single license plus \$250.00. Any license for three categories of sale shall be at the price of a single license plus \$500.00. Any application to add a category of license to an existing license at a time other than the annual renewal shall be at the price set above for each additional category plus an administrative fee of \$150.00.*

- f. There shall be no specified or required ratio of alcohol sales to any other income for farm winery operations. Farm wineries shall operate on such days and hours as are provided by the Georgia Farm Winery Act, as amended from time to time.
- g. All applications for renewal of a farm winery license or licenses shall be accompanied by a copy of the current state license. Failure to present a valid copy of a current and valid state license will result in a refusal to renew license. Timely application for renewal is determined by the date on which a complete and proper application has been submitted.
- h. A farm winery may apply for a license for on premise consumption of distilled spirits under the terms as provided herein under Article II, Retail Sales of Distilled Spirits for Consumption on the Premises.
- i. A farm winery may apply for a license for on premise consumption of wine and malt beverages (not produced under the Georgia Farm Winery Act) under the terms as provided herein under Article III, Retail Sales of Malt Beverages and Wine for Consumption on the Premises.
- j. All alcoholic beverage sales other than farm winery sales shall be in accordance with Article I, General.
- k. All applications for renewal of any license other than a farm winery license shall be as provide in Article I, General, of the Lumpkin County Alcoholic Beverage Ordinance.

**Sec. 134. Farm Winery Licensee Qualifications.** The qualifications for the licensee for sale by farm winery tasting rooms shall be the same as set forth in Article I, General, of the Lumpkin County Alcoholic Beverage Ordinance with the additional requirement that the applicant must meet all requirements of the State of Georgia for a farm winery license.

**Sec. 135. Farm Winery Excise Tax.** An excise tax is hereby levied to be computed at the rate of twenty-two cents (\$0.22) per liter on the first sale or use of the wine by the package that shall be paid to Lumpkin County, Georgia. Such tax shall be paid to the designee of the Lumpkin County Board of Commissioners by the licensee on wine sold in accord with the terms hereof in Lumpkin County. Excise taxes received by Lumpkin County after the 20th day of the month shall be charged a ten percent (10%) penalty. The twenty-two cents (\$0.22) per liter shall be prorated so that all containers of wine shall be taxed on the basis of \$0.22 per liter. It shall be unlawful and a violation of this ordinance for any licensee in accord with the terms hereof to sell or deliver wine in any manner without collecting said tax.

**Secs. 136 --140. Reserved.**



**ARTICLE VI. WHOLESALERS****Sec. 141. Special provisions applicable to wholesale purchases.**

- a. Any person desiring to sell at wholesale any alcoholic beverages in the unincorporated areas of the county shall make application to the Board of Commissioners of the county for a license to do so, which application shall be in writing on the prescribed forms, and pay any license as set by the Board of Commissioners.
- b. (1) No person who has any direct financial interest in any license for the retail sale of any alcoholic beverages in the county shall be allowed to have any interest or ownership in any wholesale alcoholic beverage license issued by the county.  
  
(2) Farm wineries acting as wholesalers under the provisions of O.C.G.A. 3-6-21.1 are exempt from this limitation and may, upon proper application, approval and permitting, hold licenses as on premise, bulk or package sales and wholesale operations at a single location.
- c. No retailer shall purchase any alcoholic beverage from any person other than a wholesaler licensed under this article. No wholesaler shall sell any alcoholic beverage to any person other than a retailer licensed under this chapter; provided, however, that this section shall not prohibit the purchase by one retailer of another retailer's entire stock in a bona fide purchase of an ongoing business.
- d. No alcoholic beverage shall be delivered to any retail sales outlet in the county except by a duly licensed wholesaler. The name of the wholesale distributor shall be clearly marked on the delivery vehicle.
- e. Every retailer shall maintain sufficient audit records to attribute all alcoholic beverage items for sale to a purchase from a wholesaler licensed to do business in Lumpkin County.

**Sec. 142. Hours and days of sale.**

Wholesalers shall not engage in the sale of alcoholic beverages except between 7:00 a.m. and 6:00 p.m. Monday through Saturday.

**Sec. 143. Audit and penalties.**

- a. If the Board of Commissioners deems it necessary to conduct an audit of the records and books of the licensee, they shall notify the licensee of the date, time and place of the audit.
- b. Any licensee who violates any provisions of this article may, upon conviction, be punished by a fine of not less than \$300.00 for each offense and/or 30 days in the common jail of the county, and the license may be suspended or revoked.

**Secs. 144 – 165. Reserved.**



## ARTICLE VII. PRIVATE CLUBS

### Sec. 166. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

**Fixed salary** means the amount of compensation paid any member, officer, agent, or employee of a bona fide private club as may be fixed for him by its members at a prior annual meeting or by the governing body out of the general revenue of the club and shall not include a commission on any profits from the sale of alcoholic beverages. For the purpose of this definition, tips or gratuities which are added to the bills under club regulation shall not be considered as profits from the sale of alcoholic beverages.

**Private club** means any nonprofit association organized under the laws of this state which:

- (1) Has been in existence at least one year prior to the filing of its application for a license to be issued pursuant to this article;
- (2) Has at least 75 regular dues paying members;
- (3) Owns, hires or leases a building or space within a building for the reasonable use of its members with:
  - (a) Suitable full service kitchen and dining room space and equipment;
  - (b) A sufficient number of employees for cooking, preparing and serving meals for its members and guests; and
  - (c) Has no member, officer, agent or employee directly or indirectly receiving in the form of salary or other compensation, any profits from the sale of alcoholic beverages beyond a fixed salary.

**Sports club** means an association or corporation organized and existing under the laws of the state, organized and operated primarily to provide a location for the patrons thereof to engage in sporting events. To qualify for an alcoholic beverage consumption dealer's license, a sports club must have been actively in operation within the county at least one year prior to an application for license under this chapter. Provided, however, the one-year operational requirement shall not apply to golf club associations or golf club corporations where the selling or the serving of alcoholic beverages is to take place on the golf course premises. A sports club organized or operated primarily for serving of alcoholic beverages shall not qualify for licensing under this article, and accordingly shall not be permitted to serve alcoholic beverages at any time. Unless otherwise indicated, a sports club licensee shall comply with all other requirements imposed upon retail consumption dealers.

### Sec. 167. Regulation of sale of alcoholic beverages.

Private clubs may sell and dispense alcoholic beverages upon compliance with all applicable ordinances and regulations of the county governing the sale of such beverages and upon payment of such license fees and taxes as may be required by the existing ordinances, rules and regulations of the



county.

**Sec. 168. Investigative and administrative costs.**

Each application for a license under this article shall be accompanied by a certified check for the full amount of the license fee, together with a separate certified check or cash in the amount of \$350.00 for distilled spirits and/or beer and/or wine to defray investigative and administrative costs. If the application is denied and the license refused, or if the applicant is denied a state license, the deposit representing the license fee shall be refunded; but the \$350.00 cost paid for investigation and administration shall be retained. However, any person applying for more than one license shall pay only one fee to defray investigative and administrative expenses, which fee shall be the largest of the investigative and administrative fees authorized under this Code. Any applicant for a license under this article who has in existence at the time of making the new application an existing license under this article shall pay no investigative and administrative costs.

**Sec. 169. Hours and days of sale.**

- a. No alcoholic beverages shall be sold for consumption on the premises except between the hours of 11:00 a.m. and 12:00 midnight Monday through Saturday.
- b. Alcoholic beverages shall not be sold for consumption at any time in violation of any local ordinance or regulation or of any special order of the governing authority.
- c. Alcoholic beverages may be sold for consumption on the premises from 12:00 midnight to 1:55 a.m. on any Monday which is New Year's Day, January 1, of any year. Alcoholic beverages may be sold from 12:00 midnight on New Year's Eve until 1:55 a.m. on New Year's Day on any New Year's Eve falling on Monday through Friday.

**Sec. 170. Eligibility for issuance of a temporary special event license.**

- a. A temporary license may be issued to any person, firm or corporation, for a period not to exceed ten days in any one year, for an approved special event. The person, firm or corporation must make application and pay the fee that may be required by the ordinances and shall be required to comply with all the general ordinances and the licensing and regulations for a consumption on the premises establishment with the exception of the full service kitchen requirement.
- b. The special event must meet the following criterion prior to the issuance of a license to sell alcoholic beverages:
  - (1) The special event must be associated with and benefit the cause of a charitable or civic organization.
  - (2) The special event must receive approval from the county sheriff's department on crowd control and security measures.
  - (3) The special event must receive approval from the county sheriff's department and county public works department on traffic control measures and parking.



- (4) The location at which the special event is to take place must be approved in writing by the owner of the property.
- (5) The premises at which the special event is to take place must be approved by the Lumpkin County Board of Commissioners.
- c. Any employee or volunteer of the special event licensee, working the special event in any position dispensing, selling, serving, taking orders or mixing alcoholic beverages shall not be required to obtain a pouring permit for the special event.
- d. The Sheriff or his designee may immediately revoke any temporary license for a special event if it is determined continued alcohol sales may endanger the health, welfare or safety of the public.
- e. As a condition on the issuance of a temporary special event license, the licensee shall indemnify and hold the county harmless from claims, demand or cause of action which may arise from activities associated with the special event. The licensee shall ensure by written documentation satisfactory to the Board of Commissioners that such insurance as may be required for the event has been issued; no event may be held until ten business days after the copy of the policy has been recorded with the County, therefore failure to deliver such policy shall act to automatically cancel the alcoholic beverage license for the event.

**Secs. 171 – 190. Reserved.**

## **ARTICLE VIII. HOTEL-MOTEL IN-ROOM SERVICE**

### **Sec. 191. License.**

- a. In-room service means the provision of a cabinet or other facility located in a hotel-motel guestroom which contains beer and/or wine only, which is provided upon written request of the guest and which is accessible by lock and key only to the guest and for which the sale of the beer and/or wine contained therein is final at the time requested except for a credit which may be given to the guest for any unused portion.
- b. Any hotel-motel that acquires this in-room service shall also be required to obtain consumption on the premises license and meet all of the requirements of this chapter.
- c. No hotel-motel shall be authorized to provide in-room service until it has been issued a special license to do so. A license fee of \$100.00 shall be imposed to provide only beer and/or wine by "in-room service."
- d. The sale of beer and/or wine by in-room service shall be subject to all restrictions and limitations relative to the retail sale of any alcoholic beverages, except as provided otherwise in this article.
- e. Keys for in-room service shall only be sold to guests between the hours of 9:00 a.m. until 12:00 midnight Monday through Saturday.



**Secs. 192 – 210. Reserved.**

## **ARTICLE IX. HAPPY HOUR**

### **Sec. 211. Promotions and sales.**

- a. No licensee or employee or agent of a licensee, in connection with the sale or other disposition of alcoholic beverages for consumption on the premises, shall:
  - (1) Offer or deliver any free alcoholic beverage to any person or group of persons.
  - (2) Deliver more than two alcoholic beverages to one person at a time, however, nothing herein shall prohibit a brewpub from offering a sampler of malt beverages in containers not exceeding four ounces. Each sampler shall not exceed four different types of malt beverages.
  - (3) Sell, offer to sell, or deliver to any person or group of persons any alcoholic beverage at a price less than the price regularly charged for such alcoholic beverage during the same calendar week, except at private functions not opened to the public.
  - (4) Sell, offer to sell, or deliver to any person or group of persons an unlimited number of alcoholic beverages during any set period of time for a fixed price, except at private functions not open to the public.
  - (5) Sell, offer to sell, or deliver alcoholic beverages to any person or group of persons on any one day at prices less than those charged the general public on that day, except at private functions not opened to the public.
  - (6) Sell, offer to sell, or deliver alcoholic beverages, including malt beverages, in any container which holds more than 32 fluid ounces (.947 liters), except to two or more persons at any one time.
  - (7) Increase the volume of alcohol contained in a drink without increasing proportionately the price regularly charged for such alcoholic beverage during the same calendar week.
  - (8) Encourage or permit on the licensed premises any game or contest which involves the drinking of alcoholic beverages or the awarding of alcoholic beverages as a prize.
- b. Each licensee shall maintain a schedule of the price charged for all alcoholic beverages to be served and consumed on the licensed premises or in any room or part thereof. The licensee shall not vary the schedule of prices from day to day or from hour to hour within a single day. The schedule of prices shall be posted in a conspicuous manner so as to be in view of the paying public, and the schedule shall be effective for not less than one calendar week.
- c. No licensee shall advertise or promote in any way, whether within or without the licensed premises, any of the practices prohibited under subsection "a" of this section.



- d. No provision of this section shall be construed to prohibit licensees from offering free food or entertainment at any time, to prohibit licensees from including an alcoholic beverage as part of a meal package, or to prohibit the sale or delivery of wine by the bottle or carafe when sold with meals or to more than one person.
- e. It is the intent of this section to prohibit activities typically associated with promotions referred to as happy hour or similarly designated promotions.
- f. Both the Lumpkin County Sheriff and the Lumpkin County Code Enforcement Officers shall have responsibility for the enforcement of this article.
- g. No licensee may require the purchase of any alcoholic beverage as a part of or prerequisite to the purchase of any other product or service. If alcoholic beverages are included as part of a package of other goods and/or services, the alcoholic beverages must be priced separately and all customers must be allowed to purchase the remaining goods and services without the alcoholic beverages at a price from which the full price of the alcoholic beverages has been deducted.
- h. Any person deemed guilty of violating this section may be punished by a fine not to exceed \$500.00 and/or by imprisonment not to exceed 60 days in the common jail of the county. Licensees may further be subject to revocation proceedings.

**Secs.      212 – 230. Reserved.**



**ARTICLE X. EXCISE TAXES****Sec. 231. Levy and computation.**

In addition to all other taxes or license fees imposed upon wholesale dealers selling malt beverages or wine to retail dealers in the unincorporated areas of the county, there is hereby levied and imposed upon each such wholesale dealer the following excise taxes:

- a. Upon the sale of any beer or malt beverages there is imposed an excise tax of \$0.05 per 12-ounce container and \$6.00 for each container of tap or draft beer or malt beverage of 15 1/2 gallons and in similar proportion for bottles, cans and containers of various sizes as follows:

**TABLE INSET:**

Size of container	Tax per container
7 ounces	\$ 0.0292
8 ounces	0.0333
12 ounces	0.0500
14 ounces	0.0583
16 ounces	0.0667
32 ounces	0.1333
1/2 barrel (15 1/2 gallons)	6.00
1 barrel (31 gallons)	12.00

- b. Upon the sale of any wine there is imposed an excise tax of \$1.00 per gallon.

**Sec. 232. Payment; interest; records.**

- a. The excise taxes imposed in sections 231 and 235 shall be paid by the wholesale dealers to the director of finance of the county by the tenth of each month, based upon the units of beer and wine sold during the previous month.
- b. Interest shall accrue on late payments at the judgment rate as provided by the State of Georgia at the time the payment becomes a late payment.
- c. The wholesale dealers shall keep true and correct records of all sales and shipments and shall render a sworn statement of the records accompanying the monthly report to the director of finance.

**Sec. 233. Bond; audit; fee.**

- a. Wholesalers shall post a performance bond with the director of finance equal to 1 1/2 times the estimated highest monthly payment made in a calendar year of the prorated taxes based on sales collected by wholesalers from the retailers to secure the payment for the taxes imposed in



this article. The bond provided for in this subsection shall be secured by cash which shall bear no interest, or a surety bond executed by a surety company licensed to do business in this state and approved by the director of finance.

- b. The director of finance shall audit each wholesale dealer licensed to do business in unincorporated areas of the county, and the wholesaler shall, at the time of filing application for a license or a renewal of license, pay to the director of finance the sum of \$350.00 to cover the cost of auditing the books and records of the wholesale dealer. A wholesale dealer applying for a combination license to cover wine and malt beverage sales shall, at the time of filing application for a license or renewal, pay to the director of finance the sum of \$450.00 to cover the cost of auditing the books and records of the wholesale dealer.

**Sec. 234. Per drink excise tax.**

- a. Every purchaser of distilled spirits by the drink shall be liable for a tax thereon at the rate of three percent of the retail price or charge for such drink. Such taxes shall be collected by the licensee licensed under this article, and such licensee shall remit the same to the county on or before the tenth day of the succeeding month along with a summary of the licensee's gross sales derived from the sale of distilled spirits by the drink, excluding malt beverages. Gross sales shall include all credit card sales and shall be reported and taxes collected thereon shall be submitted to the Board of Commissioners to the same extent as required of cash sales. Each licensee shall be allowed a deduction equal to that rate authorized for deductions from state tax under part V of the Georgia Retailer's and Consumer's Sales and Use Tax Act, O.C.G.A. § 48-8-50, as now written or hereafter amended; provided that the tax is not delinquent at the time of payment. It shall be the duty of every such licensee required to make a report and pay any tax levied pursuant to this article, to keep and preserve suitable records of the sales taxable pursuant to this article, and such other books or accounts as may be necessary to determine the amount of tax due. It shall be the duty of every licensee to keep and preserve such records for a period of three years.
- b. Excise taxes received in the finance department after the 20th day of the month shall be charged a ten percent penalty.
- c. If the Board of Commissioners deems it necessary to conduct an audit of the records and books of the licensee, the county clerk will notify the licensee of the date, time and place of the audit.
- d. Any licensee who violates any provision of this article may, upon conviction, be punished by a fine of not less than \$300.00 for each offense and/or 30 days in the common jail of the county and the license of such location may be suspended or revoked.

**Sec. 235. Excise tax and bond required on wholesalers.**

- a. There is hereby levied an excise tax computed at the rate of \$0.22 per liter or \$0.65 per ounce which shall be paid to the governing authority on all distilled spirits and wine sold by wholesalers to retailers in the county. Such tax shall be paid to the Board of Commissioners by the wholesale distributor on all distilled spirits and wine sold to the licensees for the sale of



distilled spirits and wine in the county as follows: each wholesaler selling, shipping, or in any way delivering distilled spirits or wine to any licensees licensed pursuant to this article, shall collect the excise tax at the time of delivery and shall remit the excise tax together with a summary of all deliveries to each licensee on or before the tenth day of the month following. Excise taxes received in the finance department after the 20th day of the month shall be charged a ten percent penalty. The \$0.22 per liter or \$0.65 per ounce shall be prorated so that all containers of distilled spirits and wine shall be taxed on the basis of \$0.22 per liter or \$0.65 per ounce. It shall be unlawful and a violation of this chapter for any wholesaler to sell, ship or deliver in any manner any distilled spirits or wine to a retail dealer without collecting the tax. It shall be unlawful and a violation of this chapter for any retail dealer to possess, own, hold, store, display or sell any distilled spirits or wine on which such tax has not been paid. Each wholesaler shall be paid three percent of the amount of taxes collected as reimbursement for collection of the tax.

- b. There is hereby levied an excise tax on all beer and malt beverages sold by wholesalers to retailers in the county at the rate of \$0.05 per 12-ounce container and \$6.00 for each container of tap or draft beer or malt beverage of 15 1/2 gallons and in similar proportion for bottles, cans and containers of various sizes as follows:

TABLE INSET:

Size of container	Tax per container
7 ounces	\$ 0.0292
8 ounces	0.0333
12 ounces	0.0500
14 ounces	0.0583
16 ounces	0.0667
32 ounces	0.1333
1/2 barrel (15 1/2 gallons)	6.00
1 barrel (31 gallons)	12.00

All provisions as to excise tax in this section shall apply to this tax on beer and malt beverages except the tax rate which is set out in this subsection and the reimbursement of three percent of the taxes collected which shall not apply to beer and malt beverage wholesalers.

- c. Each wholesale dealer prior to commencement of any business operation within the county shall post a performance bond with the county finance manager of the county equal to 1 1/2 times the estimated highest monthly payment to be made in a calendar year of the excise tax based on sales collected by the wholesale dealer from the retailers to secure the payments for the tax imposed in this section. These bonds shall be secured by cash which shall bear no interest, or a surety bond executed by a surety company licensed to do business in this state and approved by the Board of Commissioners.
- e. A wholesaler may be excused from posting the performance bond as provided in subsection "c" of this section after demonstrating full and satisfactory compliance with the provisions



herein for a period of 12 months subsequent to the commencement of business operations within the county. Continued exemption from the requirement of posting the performance bond shall be conditioned upon continued compliance with the terms of this article and the payments of all sums as required by the provisions in this section.

## ARTICLE XI. BREWPUBS

### Sec. 236. Definition; licensing; excise tax; administration.

- a. Definition. "Brewpub" means any eating establishment in which beer or malt beverages are manufactured or brewed for retail consumption on the premises. The term "eating establishment," as used herein, means any public place, including a place available for rental by the public, selling prepared food for consumption by the public on the premises with a full service kitchen prepared to serve food every hour they are open and deriving at least as much gross receipts annually from the sale of prepared meals or food as it derives from the sale of distilled spirits.
- b. License required. No person, firm or corporation shall be issued a brewpub license without first obtaining a retail consumption license.
- c. Authorization of license holder. A brewpub license authorizes the holder of such license to manufacture on the licensed premises not more than 1,500 barrels of beer (46,500 gallons) in a calendar year (approximately 149 gallons per business day) solely for retail sale on the premises and solely in draft form.
- d. Distribution. Distribution of any malt beverages produced by a brewpub licensed under this article to any wholesaler is prohibited.
- e. Excise tax. There is hereby levied an excise tax on all beer and malt beverage produced by a brewpub at the rate of \$6.00 per one-half barrel (15 1/2 gallons) and \$12.00 per barrel (31 gallons). Such tax shall be paid to the licensing and revenue office no later than the twentieth day of each month for the preceding month's production. A late payment penalty not to exceed ten percent of the tax otherwise due shall be added to the amount due for any payment not received by the due date.
- f. Administration.
  - (1) The Finance Director, or designee, is authorized to establish procedures for administering all provisions of this article to include, but not limited to, reporting forms and requirements, or establishing procedures and schedules for conducting financial audits or inspections of the books or records of any establishment licensed under this article.
  - (2) Every brewpub located within the unincorporated county shall file a monthly report with the Board of Commissioners, no later than the twentieth day of each month, on such forms as the Board of Commissioners may prescribe, setting forth all malt beverages produced during such preceding calendar month, to include beginning and ending inventories. Such



report shall also indicate the total production of malt beverages during the report period and the proper tax remittance for such production. Failure to properly complete or submit the required reports shall subject the licensee to a late filing penalty not to exceed \$25.00 for each deficient reporting period.

**Sec. 237. Severability.**

If any section, provision or clause of any part of this article shall be declared invalid or unconstitutional, or if the provisions of any part of this article as applied to any particular situation or set of circumstances shall be declared invalid or unconstitutional, such invalidity shall not be construed to affect the portions of this article not so held to be invalid, or the application of this article to other circumstances not so held to be invalid. It is hereby declared as the intent that this article would have been adopted had such invalid portion not been included herein.